

MEMO ENDORSED

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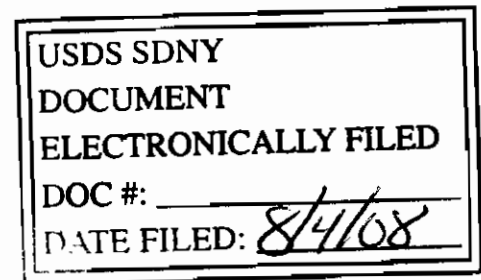
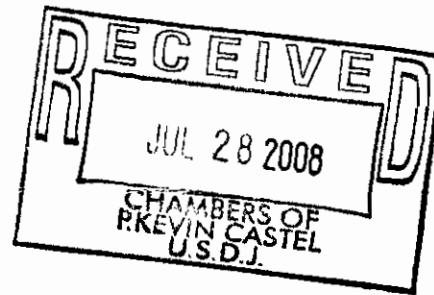
CHRISTINE J. HANSEN
MARY S. SKIBER

July 25, 2008

Via First Class Mail

Honorable P. Kevin Castel
United States District Court for the
Southern District of New York
500 Pearl Street, Room 1310
New York, New York 10007

Re: Fashion World Ltd. v. Green, et. al.
Case No. 07-cv-6108



Dear Judge Castel;

This letter is being submitted on behalf of cross-claim defendant Daryl Maynard ("Maynard") to alert the Court to the status of this matter in advance of the conference scheduled for August 4th at 3 p.m. Further, we respectfully request that a pre-motion conference pursuant to Local Rule 37.2 be held on that date. We understand that cross-claim defendant Liza Nunziata, Metamorphosis ("Nunziata") is submitting a similar letter to Your Honor.

We assert that the Green cross-claim plaintiffs (Jeff Green, Ziari International LTD, US Merchants Financial Group Inc., and The Merchant of Tennis, Inc.; hereinafter collectively "Green") have failed to comply with their discovery obligations to both Maynard and Nunziata. Since the Green claims were filed on August 15, 2007, and since we were last before the Court, little or no progress has been made by Green toward the pursuit of their claims.

Requests for documents were served by Maynard on January 23, 2008. On July 1, 2008, 361 pages of discovery documents were produced by Green. There were no objections by Green to the original requests and the documents were provided with assurances that additional documents would follow. There is no reference within or accompanying the documents that indicate what documents are allegedly responsive to what requests. This is directly in

contravention to FRCP 34 which requires documents to be produced as they are kept in the usual course of business, *or organized and labeled to correspond with the categories in the request*. While it appears that many of the documents produced pertain to Maynard, it is impossible to ascertain what specific request any document corresponds to, and in fact for some of the documents the relevance to either the document requests or the Green cross-claims is unclear. On July 18th a letter was sent to Green's counsel advising of the fact that Maynard considered the documents to be non-responsive in light of the requirements of Rule 34 and requested that same be corrected. No response to or acknowledgment of that letter has been received. To date, no additional documents have been provided, nor has a single deposition taken place in this matter.

With respect to mediation, other than one joint meeting of all parties on January 28th, Maynard and Nunziata have not been a party to any discussion regarding settlement, mediation or disclosure. In fact, on January 28th, Maynard and Nunziata were excluded from most of the discussions taking place while counsel to Maynard and Nunziata were forced to waste their time sitting around a conference room table holding unrelated conversations. The only parties that engaged in settlement discussions on that date were the Green and Fashion World parties. It appears that the lead parties continue to be engaged in negotiation and document exchange, however neither cross-claim defendant Maynard nor Nunziata have been included.

Discovery in this matter was already extended 90 days by the Court in April of this year. Currently, discovery is scheduled to close on July 30, 2008. Defendant Maynard responded to all discovery requests received on June 4, 2008.

We intend to bring a motion to dismiss the Green cross-claims on various bases, including the Green failure to prosecute its case and the complete lack of personal jurisdiction over Maynard.


This Court has scheduled a conference for August 4, 2008 and both Maynard and Nunziata respectfully request that the Court hold a pre-motion conference at that time.

Respectfully Submitted,


Wanda Borges

cc: All counsel of record

The request to hold
a pre-motion conference
on August 4, 2008 at
3:00 P.M. is granted.
SO ORDERED.


USPJ
8-4-08